

REMARKS

The Specification has been amended to correct an obvious inadvertent typographical error. The claims have been amended to correct a typographical error, to incorporate the imitations of claim 1 into claim 11 and to amend claim 13 to depend from claim 11. Claim 12 has been amended to recite "further". None of the amendments made herein constitutes the addition of new matter.

The Requirement for Restriction under 35 U.S.C. 121

The Patent Office has required restriction under 35 U.S.C. 121, alleging that the claims encompass two patentably distinct inventions, as follows:

- Group I Claims 1-10 and 15-21, drawn to a method for stimulating immunity in a patient comprising a patient having a cancer with a peptide comprising the sequence of SEQ ID No: 6; and
- Group II Claims 11-14, drawn to a vaccine comprising the peptide of SEQ ID NO: 6.

The Examiner has further alleged that the claim do not share a common technical feature, based on the citation of Gu et al., which is said to disclose SEQ ID NO:6 and a method of treating a cancer.

The Examiner has also found the application contains claims directed to more than one species of the generic invention, as related to Group I claims, described below:

- A. SEQ ID NO: 9;
 SEQ ID NO:10;
 SEQ ID NO:9 AND SEQ ID NO: 10.
- B. Colorectal cancer; melanoma.

- C. HLA DR β 1*0402;
HLA DR β 1*1301;
HLA DR β 1*0402 and HLA DR β 1*1301.

The Patent Office indicated that if Group I is elected, Applicants are required to
(1) elect one of SEQ ID NO: 9 or SEQ ID NO: 10, or both SEQ ID NO: 9 and 10 from A,
(2) elect one from B, and (3) elect one from C (for treatment.

Applicants elect the invention of Group II (claims 11-14) for examination with traverse. It is noted that claim 11 has been amended to incorporate the limitations of claim 1 and to specify that the immunogenic portion of the peptide consists of SEQ ID NO:6 or an immunogenic fragment thereof. If it is necessary to elect any species, Applicants respectfully request the courtesy of a telephone conference, during which such an election can be made. However, if it is necessary to elect a species of HLA DR β 1*0402; HLA DR β 1*1301; or HLA DR β 1*0402 and HLA DR β 1*1301, Applicants provisionally elect the species HLA DR β 1*1301. Within the elected claims of Group II, claim 11-14 read on this species. However, in the absence of a specifically articulated requirement for election of such a species, Applicants respectfully request examination of all species of HLA. Note that the epitopic peptide of SEQ ID NO:6 binds to both HLA DR β 1*0402 and HLA DR β 1*1301, and thus, it is believed no election should be necessary.

With respect to the Gu reference, Applicants respectfully point out the Gu appears to teach a protein which includes but is not limited to that of SEQ ID NO:6 (14 amino acids in length) of the present application. The Gu sequence appears to be much longer (127 amino acids in length). In addition, the sequences of present SEQ ID NOs:6, 9 and 10 are found within a larger amino acid sequence which is not identical to that of present SEQ ID NO:2, from which the noted present peptide sequences are derived. The portions of the Gu reference available in translation to the undersigned do not appear to point out that the particular peptide of SEQ ID NO:6 taught in the present application would be useful in a vaccine composition, and it is Applicants' position that

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in the absence of any such teaching, the Gu reference does not negate unity of invention, and Applicants respectfully request rejoinder and simultaneous examination of the claims of both Groups I and II.

This Response is accompanied by a Petition for Extension of Time (three months) and payment of the fee of \$1110 required by 37 C.F.R. 1.17. It is believed that this submission does not require payment of any additional fees. If this is incorrect, or if any additional extension of time is needed, however, please charge any additional fees due under 37 C.F.R. 1.16-1.17 to Deposit Account No. 07-1969.

Respectfully submitted,

/donnamferber/

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